

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

|                                 |   |                                  |
|---------------------------------|---|----------------------------------|
| <b>UNITED STATES OF AMERICA</b> | ) |                                  |
|                                 | ) |                                  |
| <b>v.</b>                       | ) | <b>Case No.: 2:07-cr-307-MEF</b> |
|                                 | ) |                                  |
| <b>EARNEST D. BATTLE</b>        | ) |                                  |

**NOTICE OF INTENT TO WITHDRAW PLEA OF GUILTY**

COMES NOW the Defendant, **EARNEST D. BATTLE**, by and through undersigned counsel, Donnie W. Bethel, and notifies the Court of his intent to withdraw his plea of guilty pursuant to his plea agreement. In support of Defendant's intent to withdraw his plea of guilty, he offers the following:

1. The Defendant plead guilty pursuant to a plea agreement on March 24, 2008. In that plea agreement, the Defendant reserved the right to withdraw his plea of guilty if it were later determined by the United States Probation Office that the Defendant is subject to be sentenced under the Armed Career Criminal Act.

2. In the Presentence Investigation Report, dated April 29, 2008, United States Probation Officer Kevin Poole has determined that the Defendant is subject to be sentenced under the Armed Career Criminal Act.

3. Therefore, the Defendant is entitled to withdraw his plea of guilty and proceed to trial.

Dated this 30th day of May, 2008.

Respectfully submitted,

s/ Donnie W. Bethel  
DONNIE W. BETHEL  
Assistant Federal Defender  
201 Monroe Street, Suite 407  
Montgomery, Alabama 36104  
Phone: (334) 834-2099  
Fax: (334) 834-0353  
E-mail: [don\\_bethel@fd.org](mailto:don_bethel@fd.org)  
IN Bar Code: 14773-49

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 30, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to Jerusha T. Adams, Assistant U. S. Attorney.

Respectfully submitted,

s/ Donnie W. Bethel  
DONNIE W. BETHEL  
Assistant Federal Defender  
201 Monroe Street, Suite 407  
Montgomery, Alabama 36104  
Phone: (334) 834-2099  
Fax: (334) 834-0353  
E-mail: [don\\_bethel@fd.org](mailto:don_bethel@fd.org)  
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